

HONORABLE JOHN H. CHUN  
HEARING: APRIL 15, 2022  
WITHOUT ORAL ARGUMENT

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TERI KEALOHA SAHM,  
Plaintiff,

v.

SELECT PORTFOLIO SERVICING, INC.,  
Defendant.

Case No. 2:22-cv-00165

DEFENDANT’S OPPOSITION TO  
PLAINTIFF’S EMERGENCY MOTION FOR  
PERMANENT INJUNCTION

**I. RELIEF REQUESTED**

Defendant Select Portfolio Servicing, Inc. (“SPS”) respectfully requests that the Court deny Plaintiff’s Emergency Motion for Permanent Injunction (“Motion”). Plaintiff Teri Sahn (“Sahn”) seeks unwinding of the non-judicial foreclosure on the subject property, sale of the property to a third party, and her eviction from the property, as well as damages from each entity involved in these processes. However, Sahn previously litigated these issues in a state court action against the third-party buyer, and lost. Sahn also filed in this Court a Complaint similar to the present Complaint and Motion, and the Honorable Ricardo S. Martinez dismissed Sahn’s prior Complaint for failure to state a claim. Plaintiff is barred as a matter of law from re-litigating the same issues and claims in the present action.

In the present action, once again, Plaintiff has not alleged or established any viable irregularity in the foreclosure and eviction. Further, under RCW 61.24.127, Plaintiff cannot

1 unwind the foreclosure and trustee's sale because she failed to move for an injunction to restrain  
 2 the sale. Therefore, Plaintiff cannot meet the standard for a permanent injunction, or satisfy the  
 3 four-part test. *See MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d 511, 520 (9th Cir. 1993)  
 4 ("As a general rule, a permanent injunction will be granted when liability has been established  
 5 and there is a threat of continuing violations.") (citation omitted).

6 In addition to the substantive failures of Plaintiff's Motion, Plaintiff lacks authority to  
 7 obtain a permanent injunction at this time. She cannot establish liability based on her Complaint  
 8 and there is no threat of continuing action.

## 9 II. STATEMENT OF FACTS

### 10 A. Foreclosure on the Property

11 On or about April 21, 2004, Plaintiff executed a promissory note in the principal amount  
 12 of \$432,000.00 ("Note"). *Sagara Dec.*, ¶3, Ex. A, at pp. 12-16. Plaintiff also executed a Deed  
 13 of Trust which encumbered the property at 35022 Southeast Fall City—Snoqualmie Road, Fall  
 14 City, Washington 98024 (the "Property") to secure payment of the Note. *Id.*, at pp. 18-32.

15 Plaintiff failed to make the mortgage payment due by October 1, 2017 and all payments  
 16 thereafter. Therefore, on or about April 23, 2019, SPS served a Notice of Default on Plaintiff  
 17 on behalf of the Investor of the mortgage loan, which advised that SPS would accelerate the  
 18 loan and initiate foreclosure if Plaintiff did not cure the default. Because Plaintiff failed to cure  
 19 the default, SPS initiated a non-judicial foreclosure on the Property. *See id.*, at pp. 8-10. On  
 20 January 7, 2022, the Property was sold to a third party, Jagroop Singh ("Singh"), at a trustee's  
 21 foreclosure sale. *See Motion*, at pp. 21-22.

### 22 B. Plaintiff Improperly Filed Bankruptcy Six Times to Try to Stop or Delay the 23 Foreclosure.

24 After SPS initiated the non-judicial foreclosure, Plaintiff filed for Chapter 13  
 25 bankruptcy six times to attempt to stay the foreclosure:

- 26 • On November 1, 2019, she initiated U.S. Bankruptcy Court, Western District of

1 Washington, at Seattle, Petition No.19-14050-TWD;

- 2 • On December 27, 2019, she initiated U.S. Bankruptcy Court, Western District of
- 3 Washington, at Seattle, Petition No. 19-14677-TWD;
- 4 • On February 22, 2021, she initiated U.S. Bankruptcy Court, Western District of
- 5 Washington, at Seattle, Petition No. 21-10366-TWD;
- 6 • On May 28, 2021, she initiated U.S. Bankruptcy Court, Western District of
- 7 Washington, at Seattle, Petition No. 21-11069-CMA;
- 8 • On November 18, 2021, she initiated U.S. Bankruptcy Court, Western District of
- 9 Washington, at Seattle, Petition No. 21-12093-TWD;
- 10 • On January 3, 2022, she initiated U.S. Bankruptcy Court, Western District of
- 11 Washington, at Seattle, Petition No. 22-10006-TWD.

12 *Id.*, ¶4, Ex. B.

13 In two of the bankruptcies, SPS was forced to file motions to terminate the automatic  
 14 stay and highlight Plaintiff's scheme to hinder, delay and/or defraud. *See, e.g., id.*, ¶3, Ex. A.  
 15 Ultimately, the Court dismissed or closed each Bankruptcy Petition for inadequate filings, as  
 16 Plaintiff had no intention to complete a Chapter 13 bankruptcy. *Id.*, ¶4, Ex. B.

17 Notably, while Plaintiff filed six Bankruptcy Petitions to attempt to stay the foreclosure,  
 18 she never sought an injunction in state court to attempt to stop the trustee's sale.

19 **C. Judge Martinez Dismissed Plaintiff's Complaint for Failure to State a Claim.**

20 On December 31, 2019, Plaintiff initiated an action in the United States District Court,  
 21 Western District of Washington, at Seattle, which was assigned case number 19-CV-02090  
 22 RSM. *Id.*, ¶5, Ex. C. In her Complaint, Plaintiff named one hundred and thirty-three  
 23 representatives (133) of the entities involved in the foreclosure and eviction. She also listed  
 24 numerous alleged federal crimes, including robo-signing. *Id.* On an order to show cause, signed  
 25 on February 14, 2020, Judge Martinez ordered Plaintiff to submit a response to the order to  
 26 show cause. *Id.*, ¶6, Ex. D. Plaintiff submitted an unintelligible response in which she again

1 claimed fraud and robo-signing. *Id.*, ¶7, Ex. E. On March 9, 2020, Judge Martinez dismissed  
 2 Plaintiff's Complaint and closed the action. *Id.*, ¶8, Ex. F.

3 **D. Plaintiff Unsuccessfully Challenged Her Eviction in King County Superior Court**  
 4 **Case No. 22-2-02664-2 SEA.**

5 Because Plaintiff refused to vacate the Property, on February 23, 2022, Singh was forced  
 6 to file an action for unlawful detainer in King County Superior Court, which was assigned case  
 7 number 22-2-02664-2 SEA. *Id.*, ¶9, Ex. G. In her Answer, filed on February 23, 2022, Plaintiff  
 8 challenged the unlawful detainer action and claimed that by continuing it, Singh was  
 9 committing "fraud" and "Federal RICO crimes." *Id.*, ¶10, Ex. H, at p 2. Plaintiff further claimed  
 10 the trustee's sale was "unlawful and illegal." Plaintiff claimed that the entities involved in the  
 11 foreclosure and eviction were also committing federal crimes. *Id.*

12 On an order to show cause, the parties were required to appear at a March 14, 2022  
 13 hearing. *Id.*, ¶11, Ex. I. At the hearing before the Honorable Commissioner Brad Moore, the  
 14 parties were permitted to call witnesses and provide testimony. *See Motion*, at pp. 15-40. Sahm  
 15 provided testimony in which she added to her claimed crimes. *See Motion*, at pp. 9-37. Notably,  
 16 Sahm did not claim she did not execute the Note and Deed of Trust, nor did she dispute the  
 17 default. *See Motion*, at pp. 9-37. Sahm did not specify any irregularity in the foreclosure or  
 18 eviction. *Id.* Judge Moore highlighted that there was not an order to restrain the trustee's sale.  
 19 *See Motion*, at p. 30. After reviewing the parties' submissions and hearing testimony, Judge  
 20 Moore signed the writ of restitution. *See Motion*, at p. 39.

21 **III. STATEMENT OF ISSUES**

22 Whether the Court should deny Plaintiff's Motion when a) she previously litigated the  
 23 claims or issues, and lost; b) she again fails to allege or establish any viable irregularity in the  
 24 foreclosure and eviction; and c) she previously failed to file for an injunction to restrain the  
 25 trustee's sale.

1 **IV. EVIDENCE RELIED UPON**

- 2 A. Declaration of Midori R. Sagara; and  
 3 B. The pleadings and records filed herein.

4 **V. ARGUMENT**

5 **A. Plaintiff is Barred as A Matter of Law from Re-litigating the Claims and Issues in**  
 6 **Her Motion.**

7 **1. Collateral Estoppel and Res Judicata**

8 Collateral estoppel, or issue preclusion, prevents re-litigation of an issue “when an issue  
 9 of fact or law is actually litigated and determined by a valid and final judgment, and the  
 10 determination is essential to the judgment.” *Monahan v. Emerald Performance Materials, LLC*,  
 11 705 F.Supp.2d 1206, 1213 (W.D. Wash. Feb. 25, 2010), *citing Amadeo v. Principal Mut. Life*  
 12 *Ins. Co.*, 290 F.3d 1152, 1159 (9<sup>th</sup> Cir. 2002). Res judicata, or claim preclusion, bars re-litigation  
 13 of a claim if a court has reached a final judgment on that claim in a previous action involving  
 14 the same parties or their privies. *Id.* at 1213 (citation omitted). Under both doctrines, federal  
 15 courts generally require the following:

- 16 1) the claim or issue decided in the prior adjudication is identical to the claim or  
 17 issue in the present action;  
 18 2) the prior adjudication resulted in a final judgment on the merits; and  
 19 3) the party against whom collateral estoppel or res judicata is asserted was a party  
 20 or in privity with a party to the prior adjudication.

21 *Id.*, *citing Sidhu v. Flecto Co., Inc.* 279 F.3d 896, 900 (9<sup>th</sup> Cir. 2002) (describing res judicata  
 22 requirements); *Maciel v. C.I.R.*, 489 F.3d 1018, 1023 (9<sup>th</sup> Cir. 2007) (describing collateral  
 23 estoppel requirements).

24 Collateral estoppel has two additional requirements: 1) a party against whom collateral  
 25 estoppel is asserted must have had a full and fair opportunity to litigate the issue in the prior  
 26 proceeding; and 2) the determination of the issue must have been essential to the prior judgment.

1 *Id.* (citations omitted).

2 The doctrines of collateral estoppel and res judicata directly apply to the present  
3 scenario. Because Plaintiff previously unsuccessfully litigated the allegations and claims in her  
4 Motion in Singh’s unlawful detainer action, she cannot re-litigate these allegations and claims  
5 in the present action. Judge Martinez also previously dismissed these allegations and claims for  
6 failure to state a claim. Therefore, Plaintiff cannot re-plead these allegations and claims in this  
7 action and obtain a different outcome.

8 **2. Plaintiff Unsuccessfully Litigated the Issues of the Foreclosure, Trustee’s**  
9 **Sale and Eviction in King County Superior Court Case No. 22-2-02664-2**  
10 **SEA.**

11 In Singh’s unlawful detainer action, commenced on February 23, 2022, Plaintiff as  
12 defendant in the action challenged the foreclosure, trustee’s sale and eviction. *Sagara Dec.*,  
13 ¶10, Ex. H; *see also Motion*. In her February 23, 2022 Answer, she unintelligibly challenged  
14 jurisdiction and alleged “fraud,” “Federal RICO crimes,” and an “unlawful and illegal” trustee’s  
15 sale. Plaintiff related the allegations to the entities involved in the foreclosure and eviction,  
16 including Singh. *Id.*, ¶10, Ex. H, at p. 2. Just as in her February 23, 2022 Answer, in her present  
17 Motion, Plaintiff unintelligibly challenged jurisdiction and alleged myriad claims of fraud and  
18 federal crimes in her attempt to unwind the trustee’s sale and foreclosure.

19 Most importantly, in the unlawful detainer action, Plaintiff was provided the opportunity  
20 to present testimony and evidence. *See Motion*, at pp. 15-40. As the transcript of the March 14,  
21 2022 hearing shows, Plaintiff filed or submitted 2,438 pages for Commissioner Moore’s review.  
22 *See Motion*, at p. 19. She also provided testimony, in which she read verbatim the first paragraph  
23 in her present Motion, beginning “I have evidence of unlawful conversion, kidnapping, human  
24 trafficking...” *See Motion*, at pp. 25-26. Plaintiff probably would have continued to read  
25 excerpts from the Motion had Commissioner Moore not interrupted. At the hearing, Plaintiff  
26 also referred to her dismissed federal court action, commenced on December 31, 2019, in which

1 she named one hundred and thirty-three (133) representatives of the entities involved in the  
2 foreclosure and eviction, and listed numerous alleged federal crimes. *See Motion*, at pp. 32-33.

3 After considering all the documents and testimony, Commissioner Moore signed the  
4 writ of restitution. *See Motion*, at p. 39. Commissioner Moore highlighted that Plaintiff had not  
5 moved for an injunction to restrain the trustee's sale, nor was there a bankruptcy stay at the time  
6 of the sale. *Id.* Plaintiff had not specified any viable irregularity in the foreclosure or eviction  
7 upon which Commissioner Moore could find in her favor. Commissioner Moore's rejection of  
8 Plaintiff's allegations and claims, the same as she makes in her present Motion, was essential  
9 to his decision to permit the eviction to proceed.

10 Under the doctrines of claim preclusion and res judicata, Plaintiff cannot re-litigate the  
11 issues and claims decided in the unlawful detainer action in this Court. She also cannot attempt  
12 to circumvent any Washington Court of Appeals' ruling on an appeal of the writ of restitution  
13 by filing the same allegations and claims in this Court. Plaintiff's Motion must be denied.

14 **3. Judge Martinez Dismissed Plaintiff's Allegations and Claims Re-Plead in**  
15 **this Action.**

16 Similar to the analysis above, Plaintiff previously filed the allegations and claims in her  
17 Motion and Complaint in the action in the United States District Court, Western District of  
18 Washington, at Seattle, No. 19-CV-02090 RSM. *Sagara Dec.*, ¶5, Ex. C. Plaintiff's December  
19 31, 2019 Complaint named one hundred and thirty-three representatives (133) of the entities  
20 involved in the foreclosure and eviction, and listed numerous alleged federal crimes of fraud or  
21 sounding in fraud, including RICO violations and robo-signing. *Id.* In Plaintiff's present  
22 Motion, she listed numerous individuals and entities involved in the foreclosure and eviction.  
23 Plaintiff further asserted myriad federal claims of fraud or sounding in fraud, and she  
24 specifically alleged robo-signing in her present Complaint. In both federal actions, Plaintiff's  
25 filings are unintelligible and fail to specify any viable basis for unwinding the foreclosure and  
26 trustee's sale.

1 In the prior federal court action, in an order to show cause, Judge Martinez provided  
 2 Plaintiff with an opportunity to explain or re-plead her allegations/claims to state a claim. *Id.*,  
 3 ¶6, Ex. D. Plaintiff failed to do so in her responsive briefing and on February 14, 2020, Judge  
 4 Martinez dismissed Plaintiff's prior Complaint and closed the action. Plaintiff cannot re-file her  
 5 unintelligible allegations or claims in the present action. Judge Martinez has already ruled  
 6 dismissal was appropriate because Plaintiff failed to state any claim. *Id.*, ¶8, Ex. F.

7 **B. Plaintiff Cannot Meet the Standard for a Permanent Injunction.**

8 **1. Permanent Injunction**

9 To obtain a permanent injunction, a party must satisfy a four-part test: 1) irreparable  
 10 harm; 2) lack of adequate remedies at law; 3) the balance of hardships weighs in its favor; and  
 11 4) the injunction is in the public's interest. *See eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388,  
 12 393-94 (2006).

13 Further, "[a]s a general rule, a permanent injunction will be granted when liability has  
 14 been established and there is a threat of continuing violations." *MAI Sys. Corp.*, 991 F.2d at  
 15 520, *citing Nat'l Football League v. McBee & Bruno's, Inc.*, 792 F.2d 726, 732 (8<sup>th</sup> Cir. 1986).

16 **2. Plaintiff has not Alleged or Established Any Irregularity in the Foreclosure**  
 17 **or Eviction.**

18 In the present Motion, Plaintiff has not identified any facts that would support a basis  
 19 to unwind the foreclosure and trustee's sale, such as an irregularity in either process, or entitle  
 20 her to monetary damages. Notably, Plaintiff does not dispute that she borrowed money in  
 21 connection with the Property and then defaulted on the loan. Because Plaintiff has not even met  
 22 the pleading threshold, she could not possibly establish liability on the part of any individual or  
 23 entity involved in the foreclosure or eviction. Therefore, Plaintiff cannot obtain a permanent  
 24 injunction or recover any damages. *See MAI Sys. Corp.*, 991 F.2d at 520.

25 Plaintiff also could not satisfy the four-part test for a permanent injunction in this action.  
 26 First, there is no irreparable harm in the present scenario. If Plaintiff were able to establish an



1 actual irregularity in the foreclosure or trustee's sale, she could obtain an order to unwind the  
 2 sale and foreclosure. Second, this would be an adequate remedy at law, as well as monetary  
 3 damages. Third, plaintiff does not dispute that she did not make the mortgage payment due by  
 4 October 1, 2017 and all payments thereafter. The balance of hardships does not favor that  
 5 Plaintiff could not make a mortgage payment for about four and a half years and continue living  
 6 at the Property. Fourth, and finally, an injunction is not in the public's interest; rather, it is only  
 7 in Plaintiff's interest.

8 Even if the Court looked beyond Plaintiff's Motion to the Complaint, the only fact  
 9 Plaintiff alleged is that two copies of the Note were "robosigned." *See Dkt No. 1*. However,  
 10 Washington Federal Courts have routinely rejected robo-signing as a cognizable legal theory.  
 11 *See, e.g., Bain v. Metro. Mortg. Group, Inc.*, 2010 WL 891585, at \*6 (W.D. Wash. March 11,  
 12 2010) ("There is simply nothing deceptive about using an agent to execute a document, and this  
 13 practice is commonplace in deed of trust actions."). Further, Plaintiff has not set forth any facts  
 14 that the individual who signed the Note on behalf of the Investor or owner lacked authority to  
 15 do so. If Plaintiff also intended to challenge any Assignment, as the borrower and third party to  
 16 the transaction, she would lack standing to do so. *See Ukpoma v. U.S. Bank Nat. Ass'n*, 12-CV-  
 17 0184-TOR, 2013 WL 1934172 (E.D. Wash. May 9, 2013) (dismissing mortgagor's allegations  
 18 of "robo-signing" for lack of standing to challenge the transaction); *Brodie v. Nw. Tr. Servs.*,  
 19 *Inc.*, 12-CV-0469-TOR, 2012 WL 6192723, at \*2 (E.D. Wash. Dec. 12, 2012) (collecting  
 20 cases dismissing borrower's claims of "robo-signing" for lack of standing to challenge the  
 21 transaction).

22 Moreover, even if the Court found that Plaintiff established an irregularity in the non-  
 23 judicial foreclosure and sale, the Court could not grant a permanent injunction to restrain  
 24 foreclosure. As stated, Plaintiff does not dispute the loan and default. The current Investor or  
 25 owner of the Note is still entitled to foreclose and could initiate a judicial foreclosure action.  
 26 *Thepvongsa v. Regional Trustee Services Corp.*, 972 F.Supp.2d 1221, 1232 (W.D. Wash. Sept.

25, 2013) (denying a permanent injunction where plaintiff did not identify any legal or equitable justification for erasing the debt, and defendants were still entitled to judicially foreclose); *McDonald v. OneWest Bank, FSB*, 929 F.Supp.2d 1079, 1088 (W.D. Wash. Mar. 7, 2013).

**C. Pursuant to RCW 61.24.127, Plaintiff Cannot Unwind the Foreclosure or Eviction.**

RCW 61.24.127 states in pertinent part:

(1) The failure of the borrower or grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

(a) Common law fraud or misrepresentation;

(b) A violation of Title 19 RCW;

(c) Failure of the trustee to materially comply with the provisions of this chapter; or

(d) A violation of RCW 61.24.026.

(2) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within two years from the date of the foreclosure sale or within the applicable statute of limitations for such claim, whichever expires earlier;

***(b) The claim may not seek any remedy at law or in equity other than monetary damages;***

***(c) The claim may not affect in any way the validity or finality of the foreclosure sale or a subsequent transfer of the property;***

...

RCW 61.24.127 (emphasis added).

As Commissioner Moore highlighted, Plaintiff did not seek an injunction to restrain the trustee's sale. *See Motion*, at p. 30. Instead, Plaintiff attempted to stop or delay the foreclosure and sale by improperly filing for Chapter 13 bankruptcy six times from November 1, 2019 to January 3, 2022. *Sagara Dec.*, ¶4, Ex. B. Since Plaintiff did not seek to restrain the trustee's sale, she is limited to monetary damages if she could establish a viable claim. *See RCW 61.24.127(2)(b)*. Under RCW 61.24.127(2)(c), she is precluded from unwinding the sale to Singh and interfering with his property rights.

**D. Plaintiff Lacks Procedural Authority for a Permanent Injunction.**

In general, a permanent injunction will be granted when liability has been established and there is a threat of continuing violations. *MAI Sys. Corp.*, 991 F.2d at 520. At this procedural posture, Plaintiff has not, and cannot, establish any liability as SPS. There is no authority for a permanent injunction now. Further, as a practical matter, because the foreclosure, trustee's sale and eviction are completed, there is no threat of continuing action to Plaintiff. A permanent injunction is unnecessary, unwarranted and not permissible.

**VI. CONCLUSION**

Plaintiff's Motion must be denied. Her unintelligible allegations and claims therein have been litigated in Singh's prior unlawful eviction action, where Plaintiff had the opportunity to present evidence and testify. This Court also previously dismissed Plaintiff's unintelligible allegations and claims for failure to state a claim after providing Plaintiff a second opportunity to plead. Plaintiff should not be permitted to re-litigate these allegations and claims in the present action.

Nothing has changed in this action. Plaintiff has failed to specify any facts to support any irregularity in the foreclosure and trustee's sale. She also does not dispute the loan and default. There is simply no basis for a permanent injunction, procedurally or substantively. Accordingly, Plaintiff's Motion should be denied.

Dated: April 11, 2022

BUCHALTER

By: /s/ Midori R. Sagara

Marissa A. Alkhazov, WSBA #34278  
malkhazov@buchalter.com  
Midori Sagara, WSBA #39626  
msagara@buchalter.com  
1420 Fifth Avenue, Suite 3100  
Seattle, WA 98101-1337  
Telephone: 206.319.7052

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 11, 2022, I caused to be served a copy of the foregoing on the following person in the manner indicated below at the following address:

**Plaintiff Pro Se:**

Teri Kealoha Sahm  
P.O. Box 387  
Fall City, WA 98024  
T: 425.222.3526  
E: [terisahm@hotmail.com](mailto:terisahm@hotmail.com)

by:

- ☒ by CM/ECF  
☒ by Electronic Mail

By: /s/ Pandy Savage McVay  
Pandy Savage McVay, Legal Assistant  
[pmcvay@buchalter.com](mailto:pmcvay@buchalter.com)